



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON D.C. 20460

OFFICE OF THE ADMINISTRATOR
SCIENCE ADVISORY BOARD
STAFF OFFICE

April 28, 2020

MEMORANDUM

SUBJECT: Formation of the COVID-19 Review Panel under the Science Advisory Board (SAB)

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THRU: Wanda Bright /s/
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TO: Thomas Brennan
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The U.S. Environmental Protection Agency (EPA) Office of Research and Development requested that Science Advisory Board (SAB) review *EPA's Identification of Research Needs to Address the Environmental and Human Health Impacts of COVID-19 Pandemic*. The SAB Staff Office has convened a panel of experts drawn from the Chartered Science Advisory Board, the SAB Chemical Assessment Advisory Committee (CAAC), and the SAB Drinking Water Committee (DWC) to provide rapid advice on scientific and technical issues related to the COVID-19 Pandemic. The SAB anticipates that the scope and scale of COVID-19 Pandemic will lead EPA Program Offices to request advice on an array of scientific and technical issues. Rapid advice from nationally recognized scientists and public health experts will assist the Agency in developing and implementing timely and scientifically appropriate responses to the COVID-19 Pandemic. The SAB COVID-19 Review Panel will provide advice on opportunities for current and future EPA research activities that might enhance and inform EPA's current and any future responses to SARS-CoV-2.

This memorandum addresses the set of determinations that were used in forming the COVID-19 Review Panel under the Science Advisory Board.

1. The type of review body that will be used to conduct the review, and the nature of the review;

2. The types of expertise needed to address the general charge;
3. Financial conflict of interest considerations, including identification of parties who are potentially interested in or may be affected by the topic to be reviewed;
4. How regulations concerning “appearance of a loss of impartiality” pursuant to 5 C.F.R. § 2635.502 apply to members of the augmented committee;
5. Other considerations that might affect the objectivity of members of the augmented committee; and
6. How individuals were selected for the augmented committee.

DETERMINATIONS:

1. The type of review body that will be used to conduct the review, and the nature of this review.

The COVID-19 Review Panel, formed under the auspices of the Science Advisory Board (SAB), consists of subject matter experts selected to provide rapid advice on scientific and technical issues related to the COVID-19 Pandemic. The chair of the Panel will be a member of the Chartered SAB and the Panel’s report will be reviewed by the Chartered SAB before they are transmitted to the EPA Administrator.

2. The types of expertise needed to address the general charge.

The SAB Staff Office announced in a Federal Register Notice (FRL-10008-66-OA) published on April 23, 2020 that it was forming a SAB panel to review *EPA’s Identification of Research Needs to Address the Environmental and Human Health Impacts of COVID-19 Pandemic*.

The SAB Staff Office identified 23 current members of the Chartered Science Advisory Board (SAB), the SAB Chemical Assessment Advisory Committee (CAAC), and the SAB Drinking Water Committee (DWC) with expertise in one or more of the following areas: public health, epidemiology, medical and health sciences, toxicology, microbiology, emergent diseases, environmental health, engineering and risk assessment. In addition, SABSO also included members with expertise in modeling, biostatistics and drinking water and water quality. A total of 17 members agreed to provide rapid advice on scientific and technical issues related to the COVID-19 Pandemic and opportunities for current and future EPA research activities that might enhance and inform EPA’s current and any future responses to SARS-CoV-2.

3. Financial conflict of interest consideration, including identification of parties who are potentially interested in or may be affected by the topic reviewed.

- a) Identification of parties (or class of parties) whose financial interests may be affected by the matter to be reviewed: The principal potentially interested parties for this topic are: 1) federal, state, local government agencies and tribal partners; 2) non-governmental

organizations that focus on human health and the environment; 3) a broad range of academic and industry researchers; or academic, industry, and government sponsored research institutes addressing environmental indicators and national environmental trends; and 4) the general public.

This review of the evaluation will not focus on any particular environmental policy issue. Thus, this Panel's deliberations will not be focused on the interests of specific parties or a discrete and identifiable class of parties.

- b) Conflict of interest considerations: For Financial Conflict of Interest (COI) issues, the basic 18 U.S.C. § 208 provision states that: “An employee is prohibited from participating *personally or substantially* in an official capacity in any *particular matter* in which he, to his knowledge, or any person whose interests are imputed to him under this statute has a *financial interest*, if the particular matter will have a *direct and predictable effect* on that interest [emphasis added].” For a conflict of interest to be present, all elements in the above provision must be present. If an element is missing the issue does not involve a financial conflict of interest; however, the general provisions in the appearance of impartiality guidelines still apply and need to be considered.
- i. Does the general charge to the Panel involve a particular matter? A “particular matter” refers to matters that “...will involve deliberation, decision, or action that is focused upon the interest of specific people, or a discrete and identifiable class of people.” It does not refer to “...consideration or adoption of broad policy options directed to the interests of a large and diverse group of people.” [5 C.F.R. § 2640.103(a)(1)]. A particular matter of specific party means a particular matter that is focused on the interests of a specific party [5 C.F.R. § 2640.102(m)].

The EPA's Identification of Research Needs to Address the Environmental and Human Health Impacts of COVID-19 Pandemic review does not qualify as a particular matter in that it does not involve deliberation, decision or action that is focused upon the interests of a discrete and identifiable class of people and does not involve specific parties. Nor does this review include matters which involve formal parties or extend to legislation or policy-making that is narrowly focused upon the interests of a discrete and identifiable class of persons. Rather it covers a broad range of environmental research categories to identify the current state of EPA's capabilities and research areas where there are opportunities to refine and improve on the current understanding of SARS-CoV-2. This activity was conducted with a goal of enhancing capabilities, capacity, and expanding the knowledge base to further support decision-making within EPA and across the Nation.

Because this does not constitute a particular matter, the chain of elements leading to a determination that a conflict of interest exists is broken. No such conflict exists and there is no need to pursue the additional elements in determining the existence of a conflict of interest (i.e., Personal and Substantial Participation; Direct and Predictable Effect on Members Financial Interest).

4. How regulations concerning “appearance of a loss of impartiality” pursuant to 5 C.F.R. § 2635.502. apply to members of the Panel.

The Code of Federal Regulations at 5 C.F.R. § 2635.502(a) states that: “Where an employee knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of his household, or knows that a person with whom he has a covered relationship is or represents a party to such matter, and where the person determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality in the matter, the employee should not participate in the matter unless he has informed the agency designee of the appearance problem and has received authorization from the agency designee.” Further, § 2635.502(a)(2) states that, “An employee who is concerned that circumstances other than those specifically described in this section would raise a question regarding his impartiality should use the process described in this section to determine whether he should or should not participate in a particular matter.”

5. Other considerations that might affect the objectivity of members of the Panel.

Prospective members for the SAB COVID-19 Review Panel were evaluated against the 5 C.F.R. 2635(a)(2) general requirements for considering an appearance of a lack of impartiality. Information used in this evaluation has come from information provided by potential advisory committee members (including, but not limited to, EPA 3110-48 confidential financial disclosure forms) and their responses to the following supplemental questions (included on the EPA 3110-48 confidential financial disclosure form):

- (a) Do you know of any reason that you might be unable to provide impartial advice on the matter to come before the panel/committee/subcommittee or any reason that your impartiality in the matter might be questioned?
- (b) Have you had any current or previous involvement with the review document(s) under consideration including authorship, collaboration with the authors, or previous peer review functions? If so, please identify and describe that involvement.
- (c) Have you served on previous advisory panels, committees or subcommittees that have addressed the topic under consideration? If so, please identify those activities.
- (d) Have you made any public statements (written or oral) on the issue that would indicate to an observer that you have taken a position on the issue under consideration? If so, please identify those statements.

The SAB Staff Office has determined that there is no reason to believe that the members selected for the Panel would not be objective and open-minded and able to engage in deliberative discussions with scientists who may have disparate points of view on the matter before the augmented committee.

6. How individuals were selected for the panel.

The SAB Staff Office Director makes the final decision about who serves on the augmented committee based on all of the relevant information, including a review of each candidate's confidential financial disclosure form (EPA Form 3110-48), the responses to the questions above, and information independently gathered by SAB Staff.

For the SAB Staff Office, a balanced committee or panel is characterized by candidates who possess the necessary domains of scientific knowledge, relevant perspectives (which, among other factors, can be influenced by work history and affiliation), and the collective breadth of experience to adequately address the general charge. Specific criteria to be used in evaluating an individual panel member include: (a) scientific and/or technical expertise, knowledge, and experience; (b) availability and willingness to serve; (c) absence of financial conflicts of interest; (d) absence of an appearance of a loss of impartiality pursuant to 5 C.F.R. § 2635.502; (e) skills working on advisory committees and panels (including objectivity and open-mindedness); and (f) for the committee as a whole, diversity of scientific expertise and viewpoints. The SAB Staff Office has determined that there are no conflicts of interest or appearances of a lack of impartiality for the members of this Panel.

On the basis of the above-specified criteria, the members of the SAB COVID-19 Review Panel are as follows:

COVID-19 Review Panel Members

Dr. Michael Honeycutt (CHAIR), Division Director, Toxicology Division, Texas Commission on Environmental Quality, Austin, TX

Dr. Craig Adams, Professor, Civil Engineering, Parks College of Engineering, Aviation and Technology, Saint Louis University, St. Louis, MO

Dr. Hugh A. Barton, Independent Consultant, Independent Consultant, Mystic, CT

Dr. Deborah Hall Bennett, Professor, Environmental and Occupational Health Division, Department of Public Health Sciences, School of Medicine, University of California, Davis, Davis, CA

Dr. Harvey Clewell, Principal Consultant, Ramboll Environment and Health, Research Triangle Park, NC

Dr. Alison C. Cullen, Interim Dean and Professor, Daniel J. Evans School of Public Policy and Governance, University of Washington, Seattle, WA

Dr. Jacqueline Hughes-Oliver, Professor, Statistics Department, North Carolina State University, Raleigh, NC

Dr. Michael Jayjock, Exposure/Risk Assessor, Self, Jayjock Associates LLC, Langhorne, PA, United States

Dr. Wayne Landis, Professor and Director, Institute of Environmental Toxicology, Huxley College of the Environment, Western Washington University, Bellingham, WA

Dr. Mark W. LeChevallier, Principal, Dr. Water Consulting, LLC, Morrison, CO

Dr. Robert Phalen, Professor, Air Pollution Health Effects Laboratory, Medicine, School of Medicine, University of California-Irvine, Irvine, CA, United States

Dr. Tara L. Sabo-Attwood, Associate Professor and Chair, Department of Environmental and Global Health, College of Public Health and Health Professionals, University of Florida, Gainesville, FL

Dr. Richard Sakaji, Independent Consultant, Independent Consultant, El Cerrito, CA

Dr. Mara Seeley, Unit Chief – Exposure Assessment, Environmental Toxicology Program, Bureau of Environmental Health, Massachusetts Department of Public Health, Boston, MA

Dr. June Weintraub, Manager of Water, Noise and Medical Cannabis Dispensary Permit Program, San Francisco Department of Public Health, San Francisco, CA, USA

Dr. Mark Wiesner, Professor, Department of Civil and Environmental Engineering, Director, Center for the Environmental Implications of NanoTechnology (CEINT), Pratt School of Engineering, Nicholas School of the Environment, Duke University, Durham, NC

Dr. Lloyd Wilson, Research Scientist IV, Bureau of Water Supply Protection, New York State Department of Health, Albany, NY, United States

Concurred,

/s/

04/28/2020

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Director and Deputy Ethics Official
EPA Science Advisory Board Staff Office (1400R)

Date